

§ 928.23

(3) Only handlers, including duly authorized officers or employees of handlers, who are present at such nomination meetings may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote, which vote shall be weighted by the volume of papayas handled by such handler during the then current fiscal year. If a person is both a grower and a handler of papayas, such person may vote either as a grower, or as a handler but not as both.

(b) In the event that nominees for all available positions are not provided by the aforesaid procedure, then such unfilled positions shall be treated as vacancies and the provisions of § 928.26 shall apply.

[53 FR 864, Jan. 14, 1988]

§ 928.23 Selection.

The Secretary shall select the grower, handler, and public members, and an alternate for each, from nominations made under §§ 928.20, 928.22 and 928.26, or from other qualified persons.

[53 FR 864, Jan. 14, 1988]

§ 928.24 Failure to nominate.

If nominations are not made in the time and manner prescribed in §§ 928.20, 928.22 and 928.26, the Secretary may without regard to nominations select the members and alternate members of the committee.

[53 FR 864, Jan. 14, 1988]

§ 928.25 Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 928.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of

7 CFR Ch. IX (1-1-06 Edition)

such member or alternate member of the committee shall be nominated and selected in the manner specified in §§ 928.20, 928.22, and 928.23: *Provided*, That the committee may in its discretion submit its recommendation to the Secretary of a nominee eligible to serve in accordance with the requirements specified in § 928.20. To the extent practicable, the committee's recommended nominee for a grower member or alternate grower member position to represent a particular district shall be a grower recommended to the committee by the incumbent grower representatives of the committee from a particular district, or such nominee shall be a qualified grower recommended by the grower group with which the former member was associated immediately prior to vacating the position; and the recommended nominee for a handler member or alternate handler member position shall be the handler recommended to the committee by the incumbent handler representatives of the committee, or such nominee shall be a qualified handler recommended by the packinghouse with which the former member was associated immediately prior to vacating the position.

[53 FR 864, Jan. 14, 1988]

§ 928.27 Alternate members.

An alternate member of the committee, during the absence or at the request of the member for whom he is an alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified.

§ 928.30 Powers.

The committee shall have the following powers:

- (a) To administer the provisions of this part in accordance with its terms;
- (b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;
- (c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

Agricultural Marketing Service, USDA

§ 928.32

(d) To recommend to the Secretary amendments to this part.

§ 928.31 Duties.

The committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers; and to select sub-committees, advisory committees or other committees and define the duties of each;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and to define the duties and procedures of each;

(c) To submit to the Secretary prior to each fiscal year a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such fiscal year;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare a statement of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To require adequate fidelity bonds for all persons handling funds;

(g) To cause its books to be audited by a competent public accountant at least once each fiscal year, and at such other times as the Secretary may request;

(h) To act as intermediary between the Secretary and any grower or handler;

(i) To provide an adequate system for estimating the total season crop of papayas and to make such determinations, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part;

(j) To investigate the growing, handling, and marketing conditions with respect to papayas, and to assemble data in connection therewith;

(k) To engage in such research relating to the determination of maturity and grade standards for papayas as may be approved by the Secretary;

(l) To submit to the Secretary such available information, including verified reports, as he may request;

(m) To notify producers and handlers of meetings of the committee to consider recommendations for regulation;

(n) To investigate compliance with the provisions of this part; and

(o) With the approval of the Secretary, to redefine the districts into which the production area is divided, to reapportion the grower member representation on the committee among the districts, to increase or decrease the number of grower and handler members and alternates on the committee, and to change the composition of the committee by changing the ratio between grower and handler members including their alternates. Any such changes shall reflect, insofar as practicable, structural changes within the papaya industry and shifts in papaya production among the districts within the production area.

[36 FR 8925, May 15, 1971, as amended at 53 FR 864, Jan. 14, 1988; 53 FR 44551, Nov. 3, 1988]

§ 928.32 Procedure.

(a) A majority of all members of the committee, including alternates acting for members, shall be necessary to constitute a quorum and such majority must concur to approve any committee action.

(b) The committee may vote by telegraph, telephone, or other means of communication, and any vote so cast shall be confirmed promptly in writing: *Provided*, That if any assembled meeting is held, all votes shall be cast in person.

(c) All meetings of the committee held for the purpose of formulating a marketing policy, for formulating recommendations for regulations, or for consideration of matters pertaining to production research, marketing research and development projects, including paid advertising shall be open to the growers and handlers. The committee shall give notice to each grower and handler who has requested such notice and has filed his name and address with the committee.

[36 FR 8925, May 15, 1971, as amended at 53 FR 864, Jan. 14, 1988]